

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
)Implementation of the Pay Telephone)
Reclassification and Compensation)
Provisions of the Telecommunications)
Act of 1996)

)

Docket No. 96-128

REPLY COMMENTS
OF THE INMATE CALLING
SERVICE PROVIDERS COALITION

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May 24, 2002

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**REPLY COMMENTS
OF THE INMATE CALLING SERVICE
PROVIDERS COALITION**

The Inmate Calling Service Providers Coalition ("ICSPC," or the "Coalition") submits the following reply comments on the Commission's *Notice of Proposed Rulemaking* in this proceeding. *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Remand & Notice of Proposed Rulemaking, FCC 02-39, released February 21, 2002 ("NPRM").

Of the commenting parties, only Citizens United for the Rehabilitation of Errants ("CURE") opposes Commission involvement in ensuring fair compensation for local collect calls. CURE states that inmate service providers must not need any additional compensation to recover their costs of service because they "continue to submit proposals" to serve confinement facilities, even where the contract put out for bid is subject to a rate ceiling. CURE Comments at 6. CURE adds that rate ceilings for operator-assisted calls were adopted by state commissions based on evidence of pricing abuses, and that they are effective in limiting rates. *Id.*

The Coalition, however, is not complaining about all rate ceilings. The Coalition's focus has always been on those rate caps that apply to local collect calls. Within that class, moreover, the Coalition's sole concern is with those rate caps that do not permit service providers to recover the costs of providing local collect calling service to marginal locations. In states where such noncompensatory rate ceilings do not apply, of course, independent inmate service providers are able to "continue to submit bid proposals" to serve confinement facilities, as CURE observes. Even in states where noncompensatory rate ceilings *do* apply, the number of service providers is dwindling.¹ In those States some independent service providers continue to serve some facilities. In order to do so, however, service providers must charge higher rates for long distance calls – the very rates about which CURE complains the most.

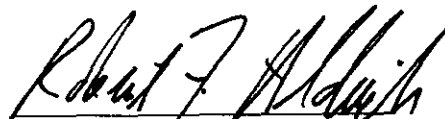
As to this narrow class of rate ceilings, the Coalition is not requesting the Commission to simply eliminate the rate ceilings. The Coalition only requests authority to charge a rate for local collect calls that is no higher than the amount necessary to recover the costs of serving marginal locations, as established in the data submitted by the Coalition with its comments filed last month. As the Coalition's cost data show, the cost of serving marginal locations is in the middle of the range of existing rate ceilings for local collect

¹ See "Failure to Deliver on Section 276 Mandates Has Killed Competition," attached to Letter to Magalie Roman Salas from Robert F. Aldrich, July 17, 2001 ("July 17, 2001 Ex Parte") (showing that the number of independent service providers declined from 29 in 1995 to four in 2001); e-mails to V. Townsend, Pay-Tel Communications, from Mary Erickson, July 3, 2001, attached to the July 17, 2001 Ex Parte (showing that the number of independent inmate service providers serving county jails in North Carolina declined from eight in 1995 to two in 2001); Letter to FCC Chairman Michael Powell from Wayne V. Gay, Sheriff of Wilson County, North Carolina, and 38 other sheriffs of counties in North Carolina, dated September 12, 2001 (stating concern that, with BellSouth's withdrawal from the inmate service business and the decline in independent providers, telephone service to North Carolina county jails is in jeopardy).

calls.² The effect of the Coalition's proposal, therefore, is merely to bring abnormally low rate ceilings into line with the norm for local collect calls.³

Dated: June 24, 2002

Respectfully submitted,



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² Compare Comments of ICSPC, Att. 1, Inmate Phone Local Call Cost Study, Tab B.1 (finding that the average cost of providing local collect calling service to a "marginal" confinement facility is \$2.44 per call) with Comments of ICSPC, Att. 2, State Imposed Rate Ceilings / 12 Minute Inmate Local Collect Call (showing rate ceilings ranging from \$1.00 to \$5.36).

³ See *id.* (showing that local collect call rate ceilings in four states are less than 55% of the national average rate ceiling of \$2.07 per call).

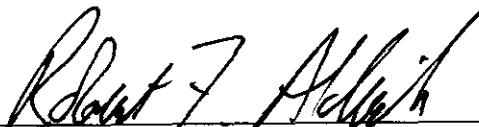
CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2002, I caused a copy of the foregoing Reply Comments of the Inmate Calling Service Providers Coalition to be sent via first-class mail to the following:

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